

Further misbranding, Section 502 (a), certain other statements on the labels of the article were false and misleading since they represented and suggested that the article was an antiseptic and germicide and a tonic; that it would be efficacious in stimulating the appetite of poultry and livestock; and that it would be efficacious in causing all poultry to "full feather" and all types of livestock to have smooth, silky coats. The article was not an antiseptic and germicide and was not a tonic, and it would not be efficacious for the purposes suggested.

DISPOSITION: June 16, 1947. A plea of nolo contendere having been entered, the court imposed a fine of \$100 on each of the 2 counts of the information.

2240. Misbranding of Save'm and Va-Po-Spra. U. S. v. Emmett J. Smith (Emmett J. Smith & Daughter). Plea of nolo contendere. Fine, \$150. (F. D. C. No. 15504. Sample Nos. 63347-F, 75745-F, 75746-F.)

INDICTMENT RETURNED: August 14, 1945, Middle District of Tennessee, against Emmett J. Smith, trading under the firm name of Emmett J. Smith & Daughter, Nashville, Tenn.

ALLEGED SHIPMENT: On or about June 5, 1944, from the State of Tennessee into the States of Georgia and New York.

PRODUCT: Analyses disclosed that the *Save'm* was a black aqueous liquid with an aromatic odor, consisting essentially of plant extractives, including a small amount of emodin substances; and that the *Va-Po-Spra* was a light-yellow-colored oil with a bottom layer consisting of a small amount of black liquid which resembled tarry material. A trace of an iodine compound was present. The odor was mixed aromatic, with menthol, guaiacol, and vanillin predominating.

NATURE OF CHARGE: *Save'm*, misbranding, Section 502 (a), certain statements on the label of the article, in an enclosed leaflet bearing headings "Directions for Using Smith's *Save'm*" and "Directions for Using Smith's *Va-Po-Spra*," and in an enclosed circular headed "Emmett J. Smith & Daughter Poultry Farms" and addressed "To the Poultry Breeding Public Everywhere" were false and misleading. These statements represented and suggested that the article, when used alone or in conjunction with *Va-Po-Spra*, would be efficacious in the cure, mitigation, treatment, and prevention of such intestinal and internal ailments of poultry as diarrhea, typhoid, cholera, coccidiosis, blackhead, and similar conditions, indicated by the abbreviation "etc." The article would not be efficacious for such purposes. Further misbranding, Section 502 (a), the name of the article "*Save'm*" was false and misleading since the name was applied to a drug intended to be used in the treatment of disease of poultry and represented and suggested that the article would save poultry from disease and death, whereas the article would not save poultry from disease and death; Section 502 (b) (2), the article bore no label containing a statement of the quantity of the contents; Section 502 (e) (2), it failed to bear a label containing the common or usual name of each active ingredient; and, Section 502 (b) (1), a portion of the article failed to bear a label containing the name and place of business of the manufacturer, packer, or distributor.

Va-Po-Spra, misbranding, Section 502 (a), certain statements on the label of the article and in the above-described circular and leaflet accompanying the article were false and misleading. These statements represented and suggested that the article, when used alone or in conjunction with *Save'm*, would be efficacious in the cure, mitigation, treatment, and prevention of such respiratory ailments of poultry as pox, sore head, canker, bronchitis, brooder pneumonia, gapes, colds, tracheitis, and roup; that it would be efficacious as a general disinfectant for chickens and turkeys; that it would be efficacious in combating respiratory ailments in man and beast; that it would be efficacious in the treatment of colds, hay fever, and asthma in humans and as a treatment and preventative of distemper and pneumonia in puppies and dogs. The article, whether used alone or in conjunction with *Save'm*, would not be efficacious for such purposes. Further misbranding, Section 502 (b) (2), the label of the article bore no statement of the quantity of the contents; and, Section 502 (e) (2), the article failed to bear a label containing the common or usual name of each active ingredient.

DISPOSITION: October 8, 1946. A plea of nolo contendere having been entered, the court imposed a fine of \$50 on each of the 3 counts of the information.